(83)

42 of 10

Previous references.

File No. 110
of 1904-05

190

(III Courts)

Later references.
E255 of 08. Ses 1-3. Fees April 09

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1, 2 and 3.

PART B FOR February 1905

SUBJECT.

Abolition of Court fee on Succession Certificates, subject No. 42 of the Represen[tative] Proceedings for 1903.

FILE No. 110 of 1904-05.

Abolition of Court fee on Succession Certificates, Subject No. 42 of the Representative Assembly Proceedings for 1903.

1 To the Registrar of the Chief Court, No. 2649—9, dated the 7th June 1904.
Requests him to furnish Government with the opinion of the Chief Court on the subject of the abolition of the 2 per cent Court fee on succession certificates generally or on certificates under Rs. 100, together with statistics as to the number of cases instituted, value of property involved, and the fees collected.

2 From the Registrar of the Chief Court, No. 2250—121, dated the 6th October 1904.
Forwards a statement showing the number of certificates issued during the past two years, the value of property covered by the same and the fees realised, and states that a tax of 2 per cent can hardly be considered oppressive on even the poorest, but that if the poor classes have to be relieved, the fees may be remitted in respect of applications in which the aggregate of debts to be recovered is below Rs. 500.

3 Government Proceedings No. J. 2458—60, dated 24th February 1905, to the Registrar of the Chief Court, and the Deputy Commissioners of the Mysore and Kadur Districts.
Observes that the representation about hardship in the matter is hardly borne out by the statistics furnished by the Chief Court, that the amount of debts included in an application for a succession certificate furnishes no criterion of the value of the estate of the diseased or of the worldly position of his legal representative, and that, therefore, there are no grounds to modify the existing law.

G. R. Endorsement No. 2461, dated 24th February 1905, to the Assistant Secretary, Dasara Representative Assembly Section.
Forwards a copy of Serial No. 3.

(247)

G.R.S. 11] 1904-05

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 110.

FILE HEADING.

Abolition of Court fee on Succession Certificate, Subject No. 42 of the Representative Assembly Proc. for 1903.

From

The Registrar of the Chief Court

No. 2250/121 Dated 6/10/04 Received 8/10/04.

Diary No. J. 775 | Enclos. one Spare Copies. — | Serial No. 2

BRIEF ABSTRACT OF LETTER.

Forwards a statement showing the no. of Certificates issued during the past year, the value of property covered by the same & the fees realised & states that a fee of 2% can hardly be considered oppressive or even unwarranted, but that if the latter have to be relieved, the fee may be remitted in cases where the aggregate of debts to be received is below Rs. 5000.

Myore Code Vol II. Page 610 Hagr

NOTES AND ORDERS.

This is in reply to this office No. 2649 of the 7th June last, in which with reference to Subject No. 42 of the Rep. Proc. of 1903, the Registrar of the Chief Court was requested to furnish Govt. with the opinion of the Chief Court

For the medical Assistant

+ Flag I

By Record 1/26/05

NOTES—First sheet.

MGCPB—25,000—16-8-04

General and Revenue Secretariat.

File No. 110 of 1904-05

Serial No.

reported above together with statistics as to the No. of cases instituted, value of property involved and the fees collected. The Registrar now forwards the present reports. The letter is silent on the question of the reduction of fees in the Bombay fees' Act on which point also the attention of the Board Court was invited. Submitted for orders.

It is the same question. It is the Court Fees Act, as amended by S. 13 of the Succn Certificate Act, that prescribes fees on succn certificates.

2 There seems to be some mistake as to the scope of succession certificates. These certificates only extend to the amount of debt to be recovered by the heirs of the deceased creditor to whom such debt is due. No fee is levied in respect of the property left by the deceased but only on the debt due to his estate. The certificate is intended to enable the donee to pass a valid receipt to the debtor from whom the debt is recovered. [It is not clear from the statement furnished by the Registrar Chief Court, whether the "value of the property involved" means the total amount of debt for the collection of which the fee was levied or the entire value of the estate left by the deceased. Evidently the former.]

12-10-04

3 The amount of debt to be included in an application for a succn certificate

MGCPB—10,000—31-8-04.

General and Revenue Secretariat.

File No. 110 of 1904-05

Serial No.

is by itself no criterion of the ~~pecuniary cir~~ worldly position of the deceased or his legal representative. A man might leave few uncollected debts behind him, and yet die rich in landed property, and, on the other hand, an insurance bonus for several thousands of rupees may be the only means of subsistence for a numerous family. Again, any exemption of the court fee on succession certificates is not likely to have a wide range, since such certificates are unnecessary, and are rarely taken out, in the large class of ~~cases~~ of coparcenery ~~or~~ debts and debts to which a person can lay claim by right of survivorship. [This is because sec: 4 of the Succession Certificate Act refers only to persons claiming to be entitled to the effects of

NOTE.—Contn. sheet.

MGCPB—10,000—31-8-04.

G.R.S. 12]

General and Revenue Secretariat.

File No. 110 of 1904-05

Serial No.

another person who is deceased, & not-
to these claiming in their own right as
co-parceners etc.]

4 There seems therefore to be no
feasible reason for our departing now
from the lines of the British Indian law
which we deliberately adopted in 1901.

5 Should however, some relief
to really poor persons be considered
desirable, then this in my opinion can
best be secured by authorizing
the District Judge (or the other officer
invested with the functions of a
D.J. Judge) to remit, at his discretion
his decision as to the poverty of the
applicant, ~~on merits~~ a certain percentage of the court-
fee on debt & securities not exceeding
say ~~three hundred~~ five hundred rupees

6 The representation on this ~~subject~~ above
is repeated in the recent year's General
subjects (p. 38, no. 38)

Sec 4

13.10.04
P.I.o

MGCPB—10,000—31-8-04.

G.R.S. 12]

General and Revenue Secretariat.

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Serial No.

Hay W

7 It may be added that under the earlier Act XXVII of 1860, certificates for amounts not exceeding Rs 1000 were exempted from fee.

8 I beg to agree with the Dy: Secy: that the Judges may be authorized to abate (say by a fourth) the fee in question in true cases of poverty when the total amount of the debts to be collected does not exceed 500 Rs.

Submitted & the Revenue Member's opinion is requested

13-10-1904

-8-47 15-10-04 myself

9 Our rules are the same as those in force in British India They do not seem to be open to the objection that no relief may be given by legislation or otherwise seems really called for.

15-10-04

(247) 15.10.1904 2-5-80

2274 15.10.04 10 The Dy Secy's proposal commends itself to me. The Secy seems worthy of consideration. Are the Board inclined to

Draw 18/11

To the Legl Rr for circulation 8.XI.04

10.11.1904

G.R.S. 12]

General and Revenue Secretariat.

File No. 110 of 1906-05

Serial No.

11 The rate of 2. p. c was levied due not appear to be excessive; if however some concession to the above to the trade desiring favor the may be allowed in exceptional cases where the certain amount of debt is due not exceed Rs 5-00.

F. Marshall
13/11/04

12 Dewan's order on the Agenda—
"Please ascertain the practice in British India from reference to Court Fees Act and notifications issued thereunder. Also see the Representative Assembly papers and bring up next time.

Sd/ P. R. K.
15. 11. 05.

Jn. dl.

13 Have any notifications been issued under the Indian Court Fees Act remitting the fees on succession certificates below a

MGCPB—10,000—31-8-04.

G.R.S. 12]

General and Revenue Secretariat.

File No. 110 of 1904 05

Serial No.

certain amount? Let the Gazette of India be searched for this information. (2) Make a copy of this year's representation on the subject from my notes of the Assembly's Proceedings.

(Sd.) K.S.G.
17/11/04.

Submitted.

1. The Gazette of India for the years 1897 up to date were gone through. Also local Rules and orders made under enactments applicable to the Madras Presidency revised up to 1897. No notification on this subject seems to have been issued. ~~[illegible]~~ (2) An extract from this year's representations before the Representative Assembly on the subject is separately put up.

(Sd) S. K.S.
5/12/04.

Secy) (Sd) K.S.G.
7.12.05.

In next Council.

(Sd) B.K.V.
8.12.04.

G.R.S. 12]
General and Revenue Secretariat.

File No. 110 of 1904-05.

Serial No.

Subject No 38 of 1904.

17 Court fee stamps on Heirship Certificates

Messrs B. Seetaramaiya of Chickmagalur, S. R. Balakrishna Rao, Muddappa, and Kodandapani Chetty of Mysore Salute.

18 Summary of representation. It is represented that heirship certificates in respect of property below Rs 1,000 in value may be exempted from payment of Court fees.

19 Existing order relating to the subject. Article 11 of Schedule I of the Court fees Regulation, 1900, as modified by section 13 of the Succession Certificate Regulation, 1901

20 Dy. Comm'rs' remarks. No ground exists for the exemption prayed for.

Remarks by Dy Secy. 21 The mere amount of the debts included in an application is no criterion of the worldly circumstances of the applicant or the deceased. And any general exemption is not likely to have a wide range. Perhaps discretion may be given to the Sessions Judge to remit a certain percentage of the fee in individual cases in which he is satisfied about the poverty of the applicant.

MGCPB—20,000—1-11-04.

110 of 04-05. 9

Extract from the Proceedings of the 93rd Meeting of the Council of His Highness the Maharaja, held at Bangalore on the 24th January 1905.

IV. Subject.- (Clause ii of Schedule.)

Proposed remission of Court Fee on Succession certificates by 25 per cent at the discretion of Judges in cases where the debts and securities involved do not exceed 500 Rs and the Judge is satisfied as to the poverty of the applicant.

Opinions of the Dewan and Councillors.

No change is called for and the law may remain as at present.

x x x

Signed. P. N. Krishna Murti

Dewan of Mysore.

"E x t r a c t"

Secretary.

mwb 2011

1109 04-05

10

Submitted to His Highness.

22 The representation made in the Representative Assembly of 1903 as to the levy of 2 per cent Court fee on succession certificates being a hardship, is hardly borne out by the statistics furnished by the Chief Court. The average number of certificates per year obtained for the past two years was 405, the value of the property involved being ₹385;639 and the amount of Court fee collected being only Rs. 6,475. The amount of debts included in an application for a succession certificate furnishes no correct criterion of the estate of the deceased or of the wordly position of his legal representative. Under all the circumstances of the case, there appears to be no sufficient reason to introduce any modification in the existing levy. The present rate of 2 per cent on all amounts which is in keeping with the rate in British India may therefore be allowed to

1100/04-05

12

Record of Case submitted for the orders of His Highness the Maharaja.

Subject.

DATE 16.2.05 NO. 617.

Remission of Court fee on succession certificates by 25 per cent at the discretion of the Judges in cases where the debts and securities involved do not exceed ₹500 and the Judge is satisfied as to the poverty of the applicant.

Order.

DATE 20.2.05 NO. 573

23 Approved

~~KRW~~

18/2/05

24 ordered

20.II.05

25 Draft ord

28/2/1905

Submitted with a draft 21/2/05

22/2 21/2/05 Sent 23.2.05 Pat 27.2

G.R.S. 12]
General and Revenue
Secretariat.

File No. 110 of 1904-05

Serial No.	
3	Govt Proceedings No J 2458-60, d/ 24-2-05.
	Observes that the representation about hardship in the matter is hardly borne out by the statistics furnished by the Chief Court, that the amount of debts included in an application for succession certificate furnishes no correct criterion of the value of the estate of the deceased & of the worldly position of the applicant, his legal representative, and that there are, therefore, no sufficient reasons to modify the existing law
	To the Registrar of the Chief Court, & the Dy Comrs of the Lyons & the Kadus Districts.
	Endorsement No 2461, d/ 24-2-05. to the Asstt Secy, D: R·A Section
	Forwards a copy of the above.

Sf no1

To

The Registrar
Chief Court.

Subj:- No. 42 of
the D.R. A Progs
of 1903

Dy 7th ~~May~~ June 1904.
no. 2649
J

Two per Cent
Court fee on Succession
Certificates Since
introduced may
be abolished allowing
the old order to Continue.

Messrs Guru Rao
K. Venkatasubbiah
and Nanjamma
prayed that the Court-
fee on Certificates
under Rs 100 at
least, might be
excused.

3. VI-04

Has the honor
to request that he
will be good enough
before the beginning of October next
to obtain and Submit
the opinion of the
Chief Court on the
marginal Subject,
together with the
necessary Statistics
Such as the no. of
Cases instituted
Value of property

involved and the fees collected The Registrar is also requested to invite the attention of the Chief Court to the reduction of fees in the ~~Indian~~ Court Fees' Act.

~~D.O~~

Yes

4/6/14

For Secy

Signed.
4/6/14

9779 3

Urgent

Bangalore, 16th October 1904

N 2250/121 Rev. I

From,

V. A. Rajaratna Mooty Esqr.
Registrar, Chief Court of Mysore.

To, B. K. Venkataramadhengar Esqr.
Secretary to Government,
Genl. & Rev. Departments.

Sir,

Y

Adverting to your docket no. 2649 dated the 7th June last in re Dasara Subject no. 42 of the Dasara Representative Assembly Proceedings of 1903, I am directed to forward the enclosed statement showing the number of Succession certificates issued during the last two years, the value of property covered by the same and the fees realized, and to state that if the Government can afford to dispense with a small but easily realized source of revenue, the fees may be abolished altogether. A tax of two per cent can hardly be considered oppressive or even the poorest. If however there is a desire to relieve the poorer classes of applicants the fees may be remitted in respect of any

application

4

application in which the aggregate of debts to be recovered is below Rs 500/-

I have the honor to be,

Sir,

your most Obedient Servant;

K Rajattachmuthu

Registrar

Mitu

Statement showing the number of Succession certificates issued in the Province of Mysore during the years 1902-03 & 1903-04

years	Number Instituted				Value of property involved				Amount of Court fees Collected				Remarks
	Bangalore Division	Mysore Division	Shimoga Division	Total	Bangalore Division	Mysore Division	Shimoga Division	Total	Bangalore Division	Mysore Division	Shimoga Division	Total	
1902-03	128	166	80	374	190,465 7 11	107,435 8 1	96181 12 10	394082 12 10	951 - -	2152 - -	1445 10 -	4548 10	
1903-04	153	171	112	436	174,346 12 1	138,665 8 5	64,183 5 10	377,195 10 4	3,674 12 -	2846 - -	1882 - -	8402 12	
Total	281	337	192	810	364812 4 -	246101 - 6	160365 2 8	771278 7 2	4625 12 -	4998 - -	3327 10 -	12951 6 -	
average for year				405				385639 3 7				6475 11 -	

— V Raghavachar

Registrar

6

G.R.S. 28]

Draft Proceedings

File No. 110

Serial No. 3.

Diary No. of letter replied to ———

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
(Courts

, *the* 24/12/05 1905

Date of issue 24/12/05

Signed by M.S. K.S. Chandra Shekhara Ayyar

READ.—

(1) The Summary of representation ~~Subject~~ No 42 of the Representative Assembly of 1903 praying that the Court fee of 2 p.c. each levied on Successin Certificates may be abolished and that the old order may be allowed to be continued.

ORDER THEREON.—No.

(2) Letter No 2250/121, dated the 7th October 1904, from the Registrar of the Chief Court of Mysore, forwarding as called for by Govt, a Statement showing the number of Successin certificates issued during the past 2 years, the value of the

over

SUBJECT

MGCPB—5,000—21-6-04

property covered by the same
and the fees realised thereon
Order thereon:- cNo. 9/2468-61
C:110-3

The representation made
by the members of the Repre-
sentative Assembly of 1903
that the levy of 2 per cent
Court fee on succession certificate
is a hardship, is hardly borne out
by the statistics furnished by
the Chief Court. The average
number of certificates for a
year, according to these figures
~~furnished by the Chief Court~~
is 405, the value of the property
involved being Rs. 3,85,639, and
the amount of Court fee
collected being only Rs. 6,476.
The amount of debt included
in an application for a
succession certificate ~~is no~~
furnishes no correct criterion
of the value
of the estate of the deceased or
of the worldly position of his

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

legal representative. After a careful consideration of all the circumstances of the case, I do not see no sufficient reason to introduce any modification in the existing law

23-2-1905.

23-2-05 Secretary.

SF 22/2/05

Do

The decision of the Chief Commissioner

Copy to the Hon'ble Secretary, R. & L. Deptt.

The D.C. Cuttack, the Superintendent of Police, Cuttack, the Subdivisional Officer, Jajpur, the Tahsildar, Jajpur, and the Subdivisional Officer, Kendrapara, with a request that the above order may be communicated to the representative members concerned.

Note the districts from which the Rep members came

SF

The members came from the Superintendent of Police Cuttack, Subdivisional Officer Jajpur, Tahsildar Jajpur, Subdivisional Officer Kendrapara

23/2

Then why do you say "Bangalore" instead of "Cuttack" &c? After all

23/2

Copies off 24/2/05

Examined SF 24/2/05